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July 23, 2008

VIA FAX: (512) 239-3311 & USPS Mail

LaDonna Castanuela

TCEQ Office of the Chief Clerk; MC 105

P.O. Box 13087

Austin, TX 78711-3087

RE: SOAH Docket No. 582-08-0861 & 582-08-4013;
TCEQ Docket No. 2007-1820-AIR & 2008-1210-AIR
Application of NRG Texas Power LLC for Proposed
Air Permit Nos. 76474 and PSD-TX-1056 & HAP-14

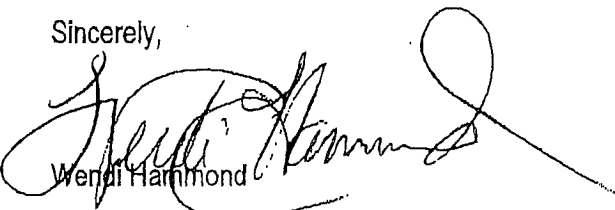
TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2009 JUL 23 PM 3:16
CHIEF CLERKS OFFICE

Dear Ms. Castanuela:

Please find enclosed for filing, in the above named and numbered matter, a copy of Protestant Robertson County: Our Land, Our Lives' Responses to Exceptions to the Proposal For Decision. For timely filing, the document is being sent by facsimile as well as the original and seven copies being mailed. Likewise, copies have been served on the parties as indicated on the enclosed certificate of service.

Thank you for your attention to this matter. If you have any questions, feel free to contact me.

Sincerely,


Wendi Hammond

Encl.

CC: Certificate of Service List (w/ encl.)

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

SOAH DOCKET NO. 582-08-0861 and 582-08-4011 JUL 23 PM 3:16
TCEQ DOCKET NO. 2007-1820-AIR and 2008-1210-AIR

CHIEF CLERKS OFFICE

APPLICATION OF NRG TEXAS § BEFORE THE STATE OFFICE
POWER LLC FOR STATE AIR §
QUALITY PERMIT 79188 AND § OF
PREVENTION OF SIGNIFICANT §
DETERIORATION AIR QUALITY §
PERMIT PSD-TX-1072 AND §
PERMIT HP-14 § ADMINISTRATIVE HEARING

**PROTESTANT ROBERTSON COUNTY: OUR LAND, OUR LIVES'
RESPONSE TO EXCEPTIONS TO THE PROPOSAL FOR DECISION**

TO THE HONORABLE COMMISSIONERS:

COMES NOW Protestant Robertson County: Our Land, Our Lives (RCOLOL) and files this its response to exceptions to the proposal for decision (PFD). In addition to the responses specifically discussed below, RCOLOL also adopts and incorporates by reference all exceptions, arguments and supporting documents, if any, submitted on behalf of the other protestants in this matter.

For brevity, RCOLOL focuses on major exceptions to the proposal for decision. This document in no way is to be construed as a limit on or waiver of issues that may be raised in a future motion for rehearing necessary for a court appeal of the final order, findings of fact and conclusions of law that may be adopted by the Commissioners.

I. NAAQS FOR OZONE

Subject to and notwithstanding Protestant's prior arguments concerning Applicant's NOx emissions, the 30-day rolling average limit for NOx emissions (as well as the data forming the basis for the limit) should be provided to the public for review and comment prior to the issuance of the permit.

Applicant excepts to the ALJs' Proposal For Decision (PFD) Order No. 1.b. and requests that the language be changed to the following:

The combined 30-day rolling average of NO_x emissions from the LMS Unit 1, LMS Unit 2 and LMS Unit 3 shall not exceed a total of [*] on a 30-day rolling average. . . . *NRG will provide this data to the Executive Director no later than 90 days after the issuance of this permit. NRG Texas commits to a baseline 30-day rolling average emission rate for NO_x based on an average of actual monitored emission levels observed during the June-September 2006 and June-September 2007 time periods.¹

Protestant fails to understand the reasoning behind a 90-day delay after permit issuance especially since the Applicant excepts to the ALJ's order to use the lowest 30-day rolling average from "any consecutive 30 day period." If the Applicant does not desire to calculate "any consecutive 30 day period," then the data Applicant has already provided to TCEQ during this hearing process should suffice to determine the permit limit. See, Applicant's Exhibit 11: Attachment B 2005-2007 Emission Data. Based upon Applicant's information, simple math formulas calculate the lowest 30-day rolling average as 976.50 tons of NO_x while the 30-day rolling average would be 1104.95 tons of NO_x. (See Attachment A: Protestant's 30-day Rolling Average Calculations Based on Applicant's Data).

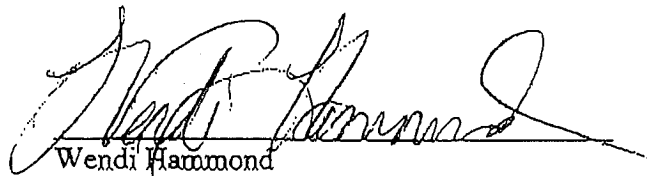
Protestant further disagrees with all the other exceptions raised by Applicant and the Executive Director for reasons previously briefed.

¹ Applicant NRG Texas Power LLC's Exceptions to the Proposal for Decision and Order of the State Office of Administrative Hearings, Attachment A.

II. PRAYER

WHEREFORE, based upon the foregoing, Protestant respectfully prays that the Commissioners recommend a denial of Applicant's permit and any other remedy to which RCOLOL may be entitled.

Respectfully submitted,



Wendi Hammond

State Bar No. 24029598

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ATTORNEY FOR ROBERTSON COUNTY: OUR LAND, OUR LIVES

ATTACHMENT A
PROTESTANT'S 30-DAY ROLLING AVERAGE CALCULATIONS BASED ON APPLICANT'S DATA

	# of Days	LMS1 Total NOx Tons	LMS2 Total NOx Tons	Total NOx (tons) Emissions for LMS1 & LMS2	LMS1 & LMS2 Average NOx (tpd)* each month
Jun-06	30	623.70	580.50	1204.20	40.14
Jul-06	31	650.60	549.60	1200.20	38.72
Aug-06	31	623.40	551.50	1174.90	37.90
Sep-06	30	629.00	546.00	1175.00	39.17
Jun-07	30	548.00	519.20	1067.20	35.57
Jul-07	31	468.80	569.50	1038.30	33.49
Aug-07	31	562.20	588.30	1150.50	37.11
Sep-07	30	394.70	581.80	976.50	32.55

36.83

Average NOx (tpd) for June
2006-Sept. 2006 & June 2007 -
Sept. 2007

* (tpd) = tons per day

976.50	Lowest 30-day rolling average NOx (tons) for June 2006-Sept. 2006 & June 2007 - Sept. 2007 [(32.55 tpd) x (30 days)]
1104.95	30-day rolling average NOx (tons) for June 2006-Sept. 2006 & June 2007 - Sept. 2007 [(36.83 tpd) x (30 days)]

CERTIFICATE OF SERVICE

I hereby certify that on this the 23rd day of July, 2009, a true and correct copy of the foregoing has been sent by U.S. mail, facsimile and/or email (as indicated below) to the following:



Wendy Hammond

VIA: Fax & Email

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FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
See Comments Below	Wendi Hammond
COMPANY:	DATE:
See Comments Below	7/23/2009
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
See Comments Below	7
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
See Comments Below	
RE:	YOUR REFERENCE NUMBER:
SOAH Docket No. 582-08-4013	
TCEQ Docket No. 2008-1210-AIR	

☒ URGENT ☐ FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

The Honorable Administrative Law Judge Bennett	512/475-4994
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